

# THE HISTORY OF TAXATION IN TANZANIA

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## ABSTRACT

This study generally aimed to look at the History of Taxation in Tanzania, before colonial period, during the colonialism time and after independent. After Tanzania having her freedom, enacted their tax laws which paper-based system. But due to the word development influenced Tanzania in 2015 to adopt digital taxation system. The new system challenging the taxpayers and tax administrator. Then the study came with good solution.

## **TAXATION**

Taxation, is difficult to have a common definition of taxation. This is due to different approaches when it comes to tax perspectives. However, in order to have a shared meaning, the term tax must be conceptualised. This attempt can be successful by revisiting several works of literature that define the term tax, as stated hereunder:

Concise **Oxford Dictionary**,<sup>i</sup>a tax is a forced payment levied on people, property, income, goods, and other things with the goal of supporting the government.

According to **Seligman**,<sup>ii</sup> tax is a contribution made by people from their private property for the upkeep and defence of the government so that it may carry out its duties and achieve the goals of the state.

In the book of **Mengesha**, a tax is merely a cash fee or other levy that the government imposes on a person or a legal entity.<sup>iii</sup> Yet **Prof. Bastable**, a tax is a mandatory payment of a person's or group of people's resources to the use of governmental authorities.<sup>iv</sup> Based on the aforementioned definitions of the term "tax," this study defines tax as an obligation to pay into government coffers that is levied by the government or its representatives on individuals, property, income, commodities, and transactions, with the goal of increasing government coffers or as a tool for policymaking.<sup>v</sup>

## **THE BACKGROUND OF TAXATION IN TANGANYIKA**

Tanganyika (as it was known by then) suffered the effect of colonial system of tax payment. Before colonialism there was no payment of taxes. This discussed in the book of MakinyikaLuoga,<sup>vi</sup> that soon after the Berlin Conference in Germany in 1884-1885 under Otto Bismarck, the decision was made for Tanganyika to become a German colony.<sup>vii</sup>

The Germans introduced taxation in different forms such as head tax, Kipande tax, and forced labour. During that period, taxes was used as a compulsory mechanism to compel the indigenous population to assimilate into the recently formed monetary economy. Hence, taxation was not mainly seen as a means of revenue mobilisation.<sup>viii</sup>The Author noted:

*“The first colonial administrators to introduce taxation were the Germans. They introduced simple forms of direct taxes such as the hut tax head and poll taxes. These were introduced primarily to force the African population to participate in the money economy and only incidentally to raise revenue.... However, the German period in Tanzania did not have a lasting impact on the country’s legal institutions including taxation.”<sup>ix</sup>*

Following the end of German occupation in 1940, the British authorities implemented a proficient taxation system. Notably, a statute pertaining to Income tax was adopted, marking the first regulatory framework in this domain.<sup>x</sup> One thing to be noted is that British taxation was in double system.<sup>xi</sup> As seen in the book **Makinyika Luoga**.<sup>xii</sup> This implies that there were systems through which both indigenous populations and those from Europe were subjected to taxes. For instance, the indigenous population was subjected to import tariffs on imported goods, which were subsequently abolished. Conversely, Europeans were subjected to the imposition of income tax. This tendency was associated with the level of income and literacy at that time.<sup>xiii</sup>

In 1948 the British created the East African High Commission (EAHC)<sup>xiv</sup> as a statutory organisation responsible for the administration and provision of certain services in Kenya, Uganda, and Tanganyika (referred to as The High Commission Territories), our mandate includes the provision of inter-territorial services. During this period, the British colonies were granted exclusive authority over all legislative functions.

*“Under the British Income Taxation was primarily intended for the European portion of the population. The Africans were taxed through import and excise duties mainly because of their low income and literacy levels.”*

After independence which took place in the year 1961, extensive efforts came into place with the motive of improving tax administration in Tanzania<sup>xv</sup> discussed this point. Looking again in the **Makinyika Luoga**<sup>xvi</sup> During this period, a number of reforms were implemented. These reforms included amendments to existing laws, the review and enactment of new legislations, the establishment of new tax bases, alterations to tax rates, the abolition of certain taxes introduced during the colonial period, and the reintroduction of previous tax legislation. The

majority of these events occurred during the time frame of 1969 to 1989, often recognised as the Reformation era.

It must be noted that for reasonably sometimes Tanzania had been operating under a controlled economy. Whereby the dominant States dominated the Tanzanian economy.<sup>xvii</sup> This state of the issue might have contributed to the delay in introducing electronic mode in the country. Even though Tanzania was liberated in the year 1961 its market still suffers from the legacy of the controlled economy.<sup>xviii</sup>

It is important to acknowledge that the taxing of electronic mode in Tanzania is characterised by a significant level of uncertainty and complexity within the regulatory framework. This research aims to provide a comprehensive examination of the legal framework and practical implementation of electronic taxation for corporations.

At the international level, several innovative initiatives have been implemented to guarantee the effective taxation of electronic mode. In the year 1997, the European Commission implemented the Electronic Mode Initiative. This endeavour was a response to the concerns raised by the electronic method, including the issue of taxes.<sup>xix</sup>

However, a question has arisen over the possibility of establishing a permanent establishment by electronic payment of taxation by corporations, so subjecting them to taxation prior to the performance of services. The concept of obstacles with the taxation payment by enterprises using electronic modes of payment, specifically in relation to the requirement of a permanent establishment as outlined in the convention, can be better understood by examining the following topics:

Furthermore, an additional effort was also undertaken by the European Commission in 2011. The document presented a proposal for the enhancement of the taxes system and Customs administration. The Commission claimed that the use of electronic method serves as a stimulus for the evasion of tax by both consumers and corporations. Consequently, it fostered the proliferation of novel approaches.<sup>xx</sup>

The World Trade Organisation (WTO) and the Organisation for Economic Co-operation and Development (OECD) are expected to provide guidance and outline future developments in

the area of electronic mode taxes. These international organisations are anticipated to assume a pivotal role in regulating global electronic mode.<sup>xxi</sup>

**Before 2015 the way of collecting taxes in Tanzania was a paper-based system, which faced a lot** of challenges like time-consuming, inadequate number of staff, poor infrastructures, foreign investors used to pay taxes through electronic mode in their states. Investing in Tanzania the investors were not able to meet the business interaction because of paper based system of payment of taxes.

## **DIGITAL TAXATION**

According to the Organisation for Economic Co-operation and Development (OECD), an electronic mode, refers to the exchange of products or services over computer-mediated networks. This exchange can occur between many entities, including enterprises, homes, individuals, governments, and other public or private organisations, which demand two key components:

Internet infrastructures, data and software. This implies that if an individual regards the placement of internet infrastructures as the definitive establishment, it may give rise to uncertainties, as these infrastructures cannot function without the presence of software stored within them, acting in an electronic manner.<sup>xxii</sup>

It is crucial to make a clear distinction between a server and a website. This phenomenon arises due to the potential involvement of two operators in some instances. An instance of an operator is responsible for managing a server, while another instance is responsible for managing the website. The prevailing scenario in several global organisations involves the adoption of electronic modes for corporation tax payments.<sup>xxiii</sup> Hence, this presents a significant obstacle to the taxation of corporate payments made through electronic means, as it becomes arduous to ascertain the physical location of business operations and the accessibility of internet infrastructure. In certain instances, corporations may opt to utilise a website that they do not host as a means of conducting business through the electronic mode of taxation payment. In this configuration, the website is hosted by the internet service provider (ISP), and all business-related data is stored on the ISP server.<sup>xxiv</sup>



From this standpoint, establishing a permanent establishment for the company becomes challenging due to the failure to meet the ownership criteria outlined in the convention. This is primarily due to the server not being under the control of the company conducting the business. Consequently, this situation may lead to the company inability to effectively tax electronic mode.<sup>xxv</sup>

Another problem that arises is the lack of physical presence associated with the website. Previously, it has been observed that firms prefer to make tax payments electronically, utilising cyberspace rather than traditional physical means. Establishing a permanent establishment solely through physical presence poses challenges, so suggesting that technological modes may fall beyond the purview.<sup>xxvi</sup>

## **AFRICA DIGITAL TAXATION**

African policymakers are well aware of the fact that the digital economy is high on the list of available sources of funds for many African tax authorities. Yet, a delicate balance must be achieved between increasing tax revenues without hot the growth of the digital economy, one of the obstacles that hinders internet connectivity.

In the end, African countries came up with the conclusion and recommendations. After receiving advice from the developed countries came to the following conclusion. Yet Africa is in an exclusive position to clutch the opportunities presented by tax challenges of digitalization to take an active role in the global tax cooperation where it would contribute to directions finding of the global standard agenda rather than providing contributions in a pre-determined agenda; thereby grasping the opportunity for more inclusiveness in international tax governance.

African countries need a more comprehensive solution to address some of the challenges and limitations of company payment of taxation digital. Africans are aware of the importance of company payment of taxation digitally yet the problem is about the level of technology, based on infrastructures and human resources. For the specific challenges faced by African economies, using the digital taxation requires extensive regional consultations across the continent. Firming regional collaboration through a combined digital tax regime is also more

likely to provide better compliance, since individual African countries. Tax models should be reviewed, taking into account the interests of both governments and consumers through collaborative efforts. Now all countries in Africa content are using digital to pay taxes, however most of the countries facing the same challenges due to a lack the permanent internet, especially in the productivity areas, most industries located there have no permanent internet the investors cannot manage to for filly their responsibilities like to pay taxes on time as the law of the state required them to do.

## TANZANIA DIGITAL TAXATION

Tanzania not self without using a new system payment of taxes, in 2015 Tanzania adopted electronic mode of payment of taxes to control this new system of payment of taxes, new law was enacted such as: The Electronic Transaction Act,<sup>xxvii</sup> and amendments of the Tax Administration Act,<sup>xxviii</sup> the Income Tax Act with tax regulations.

From 2015to 2023 the taxes authority and the taxpayers face more challenges like other developed states, because the user of digital demand high level of technology.<sup>xxix</sup> The problems in taxing electronic modeare visible in various jurisdictions despite the creativities done, in the book of **Srivastava Deek**<sup>xxx</sup> Discussed this issue, Tanzania is not the only country in the world facing challenges on how to collect tax through electronic mode. This notes that most of the countries in the globe especially on the African continent are undergoing the same situation.<sup>xxxi</sup> For example, countries such as Kenya, Uganda, Burundi, Rwanda, Niger, Chad, Namibia, and Congo. Faces the same challenges of taxing electronic mode.

## CONCLUSION

Therefore, the dawn of this new era has challenged the classical tax law principles as well as theories. In return, the tax administrations have been struggling in a bid to find a proper way for the taxpayers to pay required taxes through electronic mode. The study having ventured in the same quest discovered several gravy areas in the payment of taxation through electronic mode.

## RECOMMENDATIONS

The study has formulated a set of recommendations provided in this document are anticipated to carry significant value for the community so the report provides the following suggestions:

It recommends that tax legislation should be changed to accommodate the special requirements of proper imposition of the payment of taxation through electronic mode. Needs to be revised to find a better way in which they can be made applicable to electronic mode.

The study also recommends capacity building for the tax administration staff on how to administer payment of taxation through electronic mode. For instance, staff can be armed with the skills required to effectively tax through electronic mode in Tanzania.

It has been discovered in this study that poor enforcement mechanism is among the practical challenges hindering taxpayers through electronic mode in Tanzania. Therefore, this being the case this study recommends the changes of enforcement mechanisms by the tax administration as the enforcement of the payment of tax by participants in electronic mode is not a simple task and one has to make some amendment or addition to the tax laws which will help the tax collector (TRA) of the understand such environment first.

Tanzania among the states in the world can indeed not live without considering what the other states are doing, basically in the business activities. Because the issue of economics needs high cooperation with others, this is due to the demand of investors, markets, low materials, and technology skills, all of them depending much on the position of the laws of the state. However, Tanzania is among the developing states, which has a low level of technology, contracting infrastructures, insufficient internet, poor IT instruments, as well a low level of IT education.

Yet Tanzania must pay taxes through electronic mode because interacting with the business persons who normally in their states pays taxes online, is very easy due to the high level of technology development in states. But in Tanzania is very difficult because most taxpayer are located where there isn't permanent internet.

Therefore, Tanzania has good tax laws, but not relative to the level of technology in each area, so the study came with the suggestion, that the lawmakers should make some amendments in the tax laws that will be familiar with the level of technology, infrastructures, instruments and



technology skills. These will help to overcome the legal and practical challenges facing the taxpayers in Tanzania.

Digitalization has taken over and measures how to collect revenue from the taxpayers is still a great challenge in Tanzania. Efforts should be focused on devising innovative ways to handle payment of taxes through digital and also to harness technology to improve our tax system. Since Tanzania as a country cannot work in isolation when it comes to the global digital. Cooperation with other states especially the outside investors. How can pay tax outside of the state? Yet if the state does not have good internet infrastructure can prove failure in the collection of taxes in the state.

The study recommends the following to be addressed to enhance behavioural intention and adoption of the system to realize its objectives. Yet, Tanzania Revenue Authority (TRA) needs to ensure that technology takes precedence over the method of the payment of taxation. Tanzania Revenue Authority (TRA) needs to undertake the amendments of the current tax laws, especially the Income Tax Act, and the Tax Administration Act and enactment of The Electronic Act to ensure that such laws are in tandem with the current technological changes that enhance taxation electronic mode means of tax administration. TRA also needs to embark on creating more awareness for the taxpayers on how best can understand that paying taxes is important for the country's socio-economic development.

## ENDNOTES

<sup>i</sup>The Edition, Oxford University Press, United Kingdom.

<sup>ii</sup>SELIGMAN E, (1909), *Essays in Taxation, 6th Edition, New York: Columbia University Press.*

<sup>iii</sup>MENGESHA G.W (2008), *Tax Accounting in Ethiopian Context, 2nd Ed., Ethiopia, Alem Printing Press.*

<sup>iv</sup>KULKAMI M E A. (2001), *Business Taxation and Auditing, Precedes Source, Columbia University Press.p.2.*

<sup>v</sup>Oxford Dictionary, *Op. Cit.*

<sup>vi</sup>MAKINYIKA L.F.D.A (1996), *A Sourcebook of Income Tax Law in Tanzania, Dar-es-salaam University Press, Dar-es-salaam, Tanzania, p. 3.*

<sup>vii</sup> *Ibid.*

<sup>viii</sup> *Ibid.*

<sup>ix</sup>“LUOGA F.D.A.M. (1970) *A Sourcebook of Income Tax Law in Tanzania, University of Dar Es Salaam.P 12.*

<sup>x</sup> *Ibid.*”

<sup>xi</sup> *Ibid.*

<sup>xii</sup>LUOGA F.D.A.M. (1970) *A Sourcebook of Income Tax Law in Tanzania, University of Dar Es Salaam.P 12.*

<sup>xiii</sup> *Ibid.*

<sup>xiv</sup>The East African High Commission (1948).

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<sup>xv</sup>ODD-HELGE F (1995), *Taxation and tax reforms in Tanzania: A Survey*, Working Paper, Chr. Michelsen Institute Development Studies and Human Rights, Bergen Norway.”

<sup>xvi</sup>MAKINYIKA L.F.D.A, Op. Cit.

<sup>xvii</sup>MAGILLE J.K (2006), Op. Cit.

<sup>xviii</sup> Ibid.

<sup>xix</sup> Ibid.

<sup>xx</sup>“TAXATION AND CUSTOMS (2011). *Commission Proposes New European Cooperation Programme*, Europe East.

<sup>xxi</sup>GALUSZKA J, Op. Cit.

<sup>xxii</sup> OECD (2017), Op. Cit.

<sup>xxiii</sup> Ibid.

<sup>xxiv</sup> OECD (2017), Op. Cit. Commentary.

<sup>xxv</sup> Ibid.

<sup>xxvi</sup> OECD (2017), Op. Cit. Commentary.

<sup>xxvii</sup>CAP442RE2022.

<sup>xxviii</sup>Cap 438 RE 2019.

<sup>xxix</sup> Ibid.

<sup>xxx</sup>“SRIVASTAVA D.K. (2018) *Taxation of E-Commerce: Problems and Possible Solutions*. In: Nirmal B. Singh R. (Eds.) *Contemporary Issues in International Law*. Springer, Singapore, pp. 447-457.

<sup>xxxi</sup> Ibid.

